

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION**

UNITED STATES OF AMERICA

*

v.

*

19-32-GLR-3

KABIR T. ARE

*

APPEAL of an ORDER of DETENTION

The defendant, Kabir Are, through his undersigned counsel, hereby respectfully moves this Honorable Court to vacate the order of detention entered by the Honorable Magistrate Judge Beth P. Gesner on 8 February 2019.

Background

Mr. Are is currently charged with conspiracy to commit bank and wire fraud in violation of 18 U.S.C. §§ 1344, 1349, both non-violent offenses. Mr. Are is locally employed as a construction supervisor with GeoPro, LLC an engineering and construction firm in the Maryland, Virginia and Washington, D.C. area. Mr. Are has steadily advanced in that employment since he began working there last year. Mr. Are has been continuously employed since 2015.

The Government alleges that between late summer and December of 2015, Mr. Mohammed Kwaning, who has pled guilty to significant fraud charges, directed Mr. Are and

others to open bank accounts where in he sent fraudulent deposits that were withdrawn by his confederates. Mr. Are is alleged to have opened several accounts and assisted Mr. Kwaning in retrieving money on a few occasions over the four month pendency of the scheme. Mr. Are is not alleged to have had any role other than opening accounts used for fraudulent purposes.

Argument

18 U.S.C. § 3145 permits appeal of a Judicial Magistrate Court's detention order to the District Court. The Bail Reform Act establishes a presumption in favor of release. 18 U.S.C. section 3142(b). Detention orders are reviewed de novo. *United States v. Williams*, 753 F.2d 329, 333 (4th Cir. 1985). Detention is only appropriate where no condition or combination of conditions will reasonably assure the presence of the accused or the safety of the community 18 U.S.C. section 3142(e)(1); *United States v. Stewart*, 19 F. App'x 46, 48 (4th Cir. 2001).

Mr. Are is a married resident of Maryland, who lives with his wife, a native born American citizen and her mother, a prominent member of the local church. Mr. Are is a Nigerian national who has hard won legal status in the United States, that he is loathe to surrender by fleeing the country. Mr. Are has had knowledge of this investigation since December 2015, when he was interviewed by federal law enforcement. He has known that he was an explicit target of this prosecution since at least April of last year when he was informed, of that fact by the prosecution. Throughout those times he has lived and worked in this area and never sought to flee the jurisdiction or avoid contact with the authorities. In fact, when an arrest

warrant was served at Mr. Are's Maryland home, he was miles away, at work in Virginia, despite having every opportunity to flee at that point, he instead returned home and surrendered himself to custody. Mr. Are is not a flight risk.

Mr. Mohammed Kwaning conceived a plan to defraud the bank and cajoled others to put it into operation. Mr. Kwaning enlisted Mr. Are to open a bank account. Mr. Are did so using his own legitimate identification information. Mr. Are then accompanied Mr. Kwaning to the bank and withdrew what were ultimately alleged to be ill gotten funds. Mr. Are had no role other than to provide his good name as a conduit to open bank accounts. Mr. Are has no expertise to harm the public through any sophisticated bank scam or identity fraud.

Mr. Are has a single prior conviction for theft in Montgomery County, Maryland. That conviction stems from an incident in March of 2017. He received a suspended six month sentence and court mandated restitution payments, which he was faithfully making until the detention at issue in this case inhibited his ability to work. Mr. Are has been under supervision since March of 2018, without incident. Mr. Are has no firearms, and has never been arrested or even suspected of an act of violence in his life. Mr. Are presents no risk of danger to the community.

If Mr. Are is released he will do what he has done for the last two years, work hard and advance professionally, fulfill his restitution obligations in Montgomery, County, Maryland and comply fully with the mandates of this Court. Mr. Are's wife and mother in law are suitable third party custodians and available to serve in that capacity. Mr. Are respectfully requests the

Court consider his personal history, and conduct in this case as distinguished from his alleged co-conspirators. He is confident that a close examination of his circumstances in light of the standards of the Bail Reform Act will lead to his release.

WHEREFORE, the defendant requests that this Honorable Court vacate the Order of Detention against Mr. Kabir Are.

Respectfully submitted,

/Signed
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